

Committee of Adjustment MINUTES

Committee of Adjustment Hearing 4/2015

Meeting Type : Committee of Adjustment Hearing

Date : Tuesday, July 07, 2015

Location : Town of Pelham Municipal Building - Council Chambers

Minutes

Attendance

Brian DiMartile, Chair
Don Cook, Member
James Federico, Member
Nancy J. Bozzato, Town Clerk / Secretary Treasurer
Judy Sheppard, Acting Deputy Clerk
Applicants and Agents
Interested Citizens

Call to Order, Declaration of Quorum and Introduction of Committee and Staff

Chair DiMartile, noting that a quorum was present, called the meeting to order at 4:05 p.m. Chair DiMartile read aloud the opening remarks for persons present. Due to the number of neighbouring residents in attendance with regard to File A4/2015P the committee agreed to consider the two remaining files first and to re-order the agenda accordingly.

Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

File A5/2015P - Domenico Simonetti and

Purpose of the Applicaton:

The subject land is zoned Residential Village 1 (RV1) and Agricultural (A) in accordance with Pelham Zoning By-law 1136(1987), as amended. Relief from Section 9.2(e) is sought to

**Elena
Simone-Simonetti**
(Applications for Minor
Variance)

facilitate construction of a garage having a northerly sideyard setback distance of 1.23 metres, whereas 1.5 metres is required.

Representation:

Mr. Simonetti was present to represent the application.

Correspondence Received:

- Town of Pelham Community Planning & Development
- Town of Pelham Public Works Department - Engineering
- Public Petition Re Addition to 1012 Church Street

Comments:

The Secretary-Treasurer read a synopsis of the Planning Report. Mr. Simonetti advised that the swale between his property and that of the abutting neighbour encompasses a swale, which will remain following construction. No one in the gallery spoke to the application.

Resolution #CA20150707.1001

Moved By: Don Cook Second By: James Federico

THAT Application for relief of Section 9.2(e) to facilitate construction of a garage having a northerly sideyard setback distance of 1.23 metres, whereas 1.5 metres is required is hereby granted subject to the following condition:

The setback for the swale along the north side of the proposed garage must be maintained at a minimum of 1.5 metres to allow adequate flow, to the satisfaction of the Director of Public Works for the Town of Pelham.

Reasons:

1. The variance is minor in nature as the interior side yard setback for the structure will be marginally adjusted to accommodate the storage of personal goods and vehicles, resulting in no negative impact on the adjacent neighbours.
2. Sufficient amenity space around the dwelling is available to provide access for future maintenance on the subject property.
3. The general purpose and intent of the Zoning By-Law is maintained as the scale of the building is appropriate given its location in the urban/built-up area of the Town, and the use is permitted.
4. The intent of the Official Plan is maintained as the use is permitted in the Urban Living Area/Built Boundary designation.
5. The proposal is desirable for the appropriate development and/or use of the land as the decrease in the side yard

setback requirement for the main dwelling will facilitate construction of the garage, allowing for proper storage of personal goods and vehicles, and is consistent with existing dwellings in the vicinity.

6. This application is granted without prejudice to any other application in the Town of Pelham.
7. No objections were received from commenting agencies or abutting property owners.

Carried

**File B3 /2015P -
Apollyon Inc.**
(Applications for Consent)

Purpose of the Application:

Application is made for consent to convey 7313 square metres of vacant land, for future residential use, subject to an easement in perpetuity over 41 square metres of land and together with an easement in perpetuity over 84 square metres of land for drainage purposes, to the benefit of the Town of Pelham. 3546 square metres of land known municipally as 1161 Pelham Street is to be retained for continued commercial use. Part 3 will be encumbered by the above-referenced easement in perpetuity.

Representation:

Mr. Young was present to represent the application.

Correspondence Received:

- Town of Pelham Community Planning & Development
- Town of Pelham Public Works Department - Engineering
- Stewart Title Guaranty Company

Comments:

Mr. Young advised that as part of this proposal, improvements will be made to the plaza in the amount of approximately \$128,000 to be completed in the near future. It will be necessary to ensure that the catch basin will not interfere with drainage and he noted that he has been working with the Town for approximately one year to ensure this application proceeds appropriately given that a previous application failed due to the inability to acquire road access. He noted that he recognizes that a Holding provision will be required on the rear of the property, and he anticipates that this will be in place by December with development scheduled for 2016. He suggested that the redevelopment of the property will be of benefit to the Town and to the neighbourhood in general. In response to a question by Committee, Mr. Young advised that the need for a Holding provision is twofold: firstly, there is a need to determine the

final configuration of lands in the vicinity that will be developed for parkland, and a rezoning will be needed to develop a subdivision plan for the property that is in keeping with the area development.

Public Comment:

Ralph Middleton, Willson Crossing Court; Mr. Middleton stated that when he moved here he was pleased to enjoy the beautiful parkland adjacent to his property, however recent development has destroyed trees and the contractors have left it in a garbage heap at end of his street. He questioned the need for this additional development and whether or not consideration will be given to protecting the trees.

The Secondary Plan process for the overall Lot 177, and the Holding Provision that will prevent development until a proper plan of subdivision is in place was explained for persons present in the gallery.

Resolution #CA20150707.1002

Moved By: Don Cook Second By: James Federico

Decision:

THAT Application for consent to convey 7313 square metres of land, shown as Part 5, 6, 7 on the drawing submitted, being part of Lot 177, Thorold Township, now in the Town of Pelham be approved, subject to the following conditions:

1. THAT a zoning amendment application obtain final approval to affix a Holding "H" provision over the lands shown as Part 7 on the attached sketch, to the satisfaction of the Director of Community Planning and Development.
2. THAT the lands shown on the attached sketch as Parts 4 and 5 be dedicated to the Town of Pelham for the purposes of a walkway to the satisfaction of the Director of Community Planning and Development, such conveyance to be free and clear of any mortgages, liens or encumbrances. All costs associated with this conveyance are to be borne by the applicant.
3. THAT an easement in perpetuity be granted to the Town of Pelham for drainage purposes, over Parts 3 and 6 on the attached sketch, to the satisfaction of the Secretary-Treasurer.
4. THAT a temporary easement having a width of 7.5 metres, shown as Part 2 on the attached sketch, be registered on the title of Parts 1 and 2, being the remnant parcel, for the purposes of granting access to Part 7, and that written

documentation be provided to the Secretary-Treasurer that this easement has been established.

5. THAT the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
6. THAT the final certification fee of \$358, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer.

This decision is based on the following reasons:

1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.
2. With conditions fulfilled, the subject application will not affect the development potential of the remainder of the lands, as it will conform with Regional lot creation policies.
3. The applicant is aware that any future development of the severed parcel will be subject to approval by the Niagara Peninsula Conservation Authority.
4. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.

Carried

**File A4/2015P -
Stojan and Mary
Zoric**

(Applications for Minor
Variance)

Purpose of the Application:

The subject land is zoned Residential Multiple-RM2X in accordance with Pelham Zoning By-law 1136(1987), as amended. Minor variances to facilitate the construction of a 12-unit apartment building include a reduction of the north parking aisle, reduction of the south parking aisle, reduction in the width of the required planting strip at the north of the property, a reduction in side yard setback for a parking structure, a reduction in the side yard setback for the new apartment building, a reduction in the number of parking spaces and an increase in lot coverage.

Representation:

Peter J. Lesdow, Authorized Agent, in company with Mr. and Mrs. Zoric, were in attendance at the the hearing.

Correspondence:

- Town of Pelham Planning Department

- Town of Pelham Public Works Department
- Myrna and Angelo Bozza
- Anonymous
- Edward D. Russell
- Ronald and Elsie Rush
- Donald Larkin and Sigrid Christianson
- John and Donna Schel
- James L. Pedlar Funeral Home
- Pierre and Martha Garneau
- Pamela and Peter Maillet
- John A. Abbott
- Petition to Oppose
- Jeremy and Heather Stortz
- Ann Gledhill
- Milic and Zorka Mrkalj
- Robert Lucchetta, Lucchetta Homes
- Petition to Support

Applicant Comments:

To assist the Committee and members of the public present in the gallery, Mr. Lesdow posted plans to depict the proposed development. Citing the drawings posted, he outlined the process used to develop the plans for this proposal noting some of the alternative options that were considered when investigating the potential for this development. In the previous concepts, all components of the by-law were complied with however the building configuration was not suitable or appropriate for the neighbourhood. He said that the scheme developed for selection was chosen because the building was pulled away from the corner. Parking would have extended toward the corner of Pelham Street and Pancake Lane, and although this parking option would have complied with the By-law, it did not present the best alternative in terms of design or maximizing green space.

Within the by-law, the parking would be facing Pelham Street, so to minimize the impact the parking was relocated to orient to Pancake Lane. The owners were hesitant to proceed with the variance process. When he outlined the proposal selected to proceed he suggested that it represents the best option in terms of aesthetic suitability. He noted the by-laws are generous in terms of aisle widths and reduction of the planting strip would make the proposal feasible. The total amount of parking that presently exists is not in conformity with the by-law but the variance will allow for provision of

covered parking for tenants and overall, the parking will be more compliant with the requirements of the Zoning By-law.

Further, they reviewed previous proposals with municipal staff who determined that the building facade facing Pelham Street did not represent the streetscape.

With regard to the requested variances for a reduced parking aisle width, Mr. Lesdow advised that some other local municipalities have 6 metres as a standard and this is generally accepted.

Therefore, the request to reduce the aisle width was submitted with the idea to plant appropriate materials on the Pancake Lane side of the property to screen the parking lot. Situating the parking lot situated further west on Pancake Lane allows for a larger green space area at the corner.

With regard to the proposed new apartment building, the Committee was advised that the original calculation for lot coverage was incorrect, having been calculated at 30.5%, resulting in a request for 33% to allow for some variance in the calculation.

However, a recalculation has confirmed that the lot coverage totals only 28.1% and as such, variance #7 is not required. Mr. Lesdow, confirmed by Mr. and Mrs. Zoric, requested that this variance be withdrawn. He confirmed that the 28.1% includes covered parking structures, buildings, the gazebo and shed.

Mr. Lesdow submitted that each variance is minor in nature and represents an appropriate design. With the alternative designs, no variances were needed and the site plan process could begin immediately, however they determined that the proposal as presented represents a better solution more suited to the area.

However, he noted that upon receipt of the correspondence he notes that there are some concerns expressed by the neighbours and he made submissions to try and dispel the concerns.

Mr. Lesdow stated that he was very impressed by the time and effort made by neighbouring residents into commenting on the proposal. However, upon reviewing all of the submissions, he said that it became apparent that most concerns seem exaggerated and may have resulted from misinformation on many of them. Although he expressed an understanding that concerns are expressed as the development is in their neighbourhood, it appears that some of the submissions have become overzealous to make a point. He noted

that Page 10 of the planning report provides a synopsis of the neighbour's concerns, which he reviewed individually and provided a response, generally outlined below:

Incompatible with Neighbourhood: statements made are powerful, however it is important to realize that these are opinions. He noted that most letters make statements but do not provide supporting evidence or documents. He made the following points:

- The building standard is contained within the Zoning By-law, which speaks to density and massing;
- It is from this viewpoint that a project should be judged;
- Zoning By-law standards are professionally prepared and scrutinized by professional staff and the public before they are adopted to ensure the By-law is within the proper growth requirements of the community;
- This development meets all of the standards thus discussion on opinions or viewpoints is untrue;
- The by-law allows for 24 units on the site whereas this proposes 23;
- In terms of scale, both the apartments and all structures have 28.1% groundcover;
- Height can be five storeys whereas; proposal is for four;
- The setback from street conforms with or exceeds the by-law;
- Landscaping proposed equals 46.7% where only 35% is required;
- Variances are needed to create as much landscape as possible;
- Through the use of architectural features, the esthetics and character of the neighbourhood are respected;
- Exterior finishes will match the existing apartment building, using residential window types and stone is proposed to be put on the bases of both buildings and give a nicer quality;
- Comments contained in the petition suggested that, if approved, it will result in mismatched apartment blocks however, the design was developed to complement the existing buildings and the intent is to make it integrate;
- The owners have opted to pull the building back and create green space at the corner of Pelham Street and Pancake Lane as opposed to installing the parking lots at this corner;
- In conclusion, as noted in the planning report, Mr. Lesdow suggested that the proposal respects the character re height, bulk and massing;

Traffic Congestion:

- Mr. Lesdow suggested that this is not a project that would require a traffic study, and although he does not live in the area he suggested that this apartment building will contribute negligibly as it is a small 12 unit apartment thus the impact will not be significant;
- The driveway is located at the most westerly point of the property, allowing for approximately 50 metres or 8 car lengths to the intersection to allow for a smooth queue of traffic;

Safety of Pedestrians:

- Mr. Lesdow asked those present to consider that pedestrians on Pelham Street will not be in conflict with the property given that there is a proper sidewalk along Pancake Lane;
- The visibility is clear to see the sidewalk to allow for clear sightlines to pedestrians and this will not change as a result of this proposal;
- The Town has a pedestrian crosswalk light situated at this intersection;
- Traffic on the site is negligible so the safety of pedestrians will not be impacted by this development

Public Health and Safety - Light Pollution:

- The light levels from any residential occupancy will be filtered, Mr. Lesdow noting that curtains are generally drawn so people can't see in which results in filtering light outwards;
- Because the use will be residential, lights will follow normal sleep and wake patterns for most people;
- The parking lot will have shrouding to direct light toward parking lot, which is a matter to be addressed in the site plan process.

Sun Shadowing:

- This comment relates to the immediate neighbouring business expressing concern about decreased sunlight due to the size and proximity of the proposed apartment;
- Mr. Lesdow suggested that this comment is untrue and he explained the shadowing effect as to how the sun circulates on the property;

Other Safety Hazards:

- Comments relating to sight lines - Mr. Lesdow noted that there was no supporting documentation submitted to support

these comments and he suggested that no sight lines are blocked with this proposal;

- With regard to impact on vegetation because of excessive shade he noted that the building will cast its shadow toward the rear of the subject property;
- The landscaping has been designed to provide as much landscaping as possible, and through the site plan, the overall design will be prepared by a landscape architect to ensure it is appropriate;
- Concerns regarding any precedent this development will have on neighbouring properties were addressed by Mr. Lesdow stating that the development as stated represents an application that is consistent with Provincial Policy, the Regional Official Plan, and the Town's Official Plan, and this will not set a precedent;
- He suggested that this is only a proposal for approval of a few minor variances and not a rezoning, which could set a precedent;
- The agent suggested that on careful review of the project, concerns expressed are not warranted as the proposal does not include an offensive use such as a processing plant or commercial property;
- He noted that the design has a residential quality, is well appointed, will be well landscaped, and the proposed elevations from both streets give the feel of appropriate landscaping, in that in entire development only one tree will be removed and the rest will be maintained.

Is the Application Minor?

- In the opinion of Mr. Lesdow, each component of the applications are minor in nature.

Destruction of the Natural Environment

- Mr. Lesdow noted that a natural environment could mean character of the area which has already been addressed;
- Further, he suggested that the removal of the original orchard when the existing apartment building was constructed, removed any natural environment.

Emergency Access

- The proposed dimensions are correct to service the site during an emergency;
- Under the Ontario Building Code (OBC), the proposal

conforms to all provisions of the Code;

- The new building will be sprinklered;
- A fire hydrant occurs on an adjacent corner within 90 metres as required by the OBC;
- Emergency vehicles will have appropriate access through the existing driveway, or will have access from Pelham Street;
- He noted that emergency access requirements are legislated and if not complied with, a building permit would not be issued.

Lack of Consideration for Property Owners

- Mr. Lesdow noted that it is difficult to address this comment but suggested that it is not true;
- He advised that throughout the various design considerations, the intent was to incorporate the variances to improve the proposal;
- In his opinion, the proposal is not out of character, but rather, it fits in with the area;
- He noted that the proposed height is not significantly higher than existing structures in the area, and he indicated he was of the opinion that the existing building could be considered a three storey.

Drainage Concerns

- Mr. Lesdow advised that they will utilize a site servicing engineer to ensure that the Town's requirements are satisfied throughout the site plan process;
- The required engineering drawings will include final grading and will locate catch basins so that when storm sewers are connected in the future, these will be in place;
- He suggested that the property will drain to Pelham Street to the swale thus no storm water will occur on anyone's property but will remain on site to drain to the Town infrastructure.

In conclusion Mr. Lesdow was hopeful that he adequately addressed the concerns of the neighbours and suggested that the application in all respects conforms with standards for multi-residential development in this area.

Public Portion:

Chair DiMartile advised those present in the gallery that all

Committee members have individually attended the site, received all information including municipal reports and comments submitted by citizens up to and including just prior to this meeting, and that each member of the Committee has spent many hours reviewing the application and comments. He asked persons present to focus on the six variances being requested as these can be considered by this committee under their jurisdictional authority, however many of the issues raised in the comments received, although being recognized as important to the residents, are not within the scope of authority for this Committee's role. The Committee of Adjustment does not have jurisdiction over any matters outside of the variances submitted as part of the application. He also noted that much of the correspondence has been read into the record and has been included with the agenda package. He noted that this correspondence has been helpful to assist the Committee members in understanding all of the concerns and he asked that new questions be posed at this point. Further, he suggested that if individuals are present who have not previously submitted correspondence that they be allowed to address the committee first, to ensure that all concerns are presented. He reminded persons present of the rules of protocol, noting that the gallery allow others who have not provided written submissions to address the panel first, and that all individuals wait to be recognized before speaking.

Below is a synopsis of the comments submitted by persons present in the gallery, followed by the applicant/agent's response if any:

Kirk Ashick, Pickwick Place: Suggested that if this meeting is only to address the proposed variance, and assuming the proposal will be "rubber stamped", he questioned how the public appeals the decision. He stated opposition to the building itself and not specifically the six variances requested, and he questioned if the variances are allowed who does one appeal to?

Chair DiMarile advised those present that the appeal process is facilitated through the Ontario Municipal Board.

Member Federico noted that there are a number of concerns raised in the correspondence submitted that do not fall within the jurisdiction of this Committee but rather, rest with municipal staff or Council. He reminded those present that the Committee has only the jurisdiction to consider the six variances remaining with this proposal, given that one has been withdrawn. Concerns not relating to the variances should be addressed to Council and/or staff.

Mr. Lesdow also noted that the Ontario Municipal Board appeal process will be limited as well to the variances requested and not the overall zoning by-law.

Francis Russell, Pelham Street: Suggested that this meeting was meaningless and questioned whether or not this proposal represented a completed project, further suggesting that this was a *mock* hearing. She stated that she has not yet heard appropriate answers to the concerns of residents and indicated that she did not get proper notification of the meeting.

The Secretary-Treasurer advised those present of the notification requirements in accordance with the Planning Act and applicable Ontario Regulations, and advised that the Town met and/or exceeded the notification requirements in all respects. She confirmed that notification was sent to this individual by first class mail.

Ms. Russell expressed concern about future development, noted her concerns regarding increased traffic that will result if this application is approved, and suggested that because the agent does not live in this community, it would be impossible for him to measure compatibility with the area. She stated that she has been a Pelham resident since 1958 and opined that what was once a beautiful little town has become nothing but a mishmash and is filled with construction projects that never get finished.

Chair DiMartile reminded all present that there has been no decision rendered on the application to date and that the Committee members will take all concerns into consideration. Notification requirements are completed in full compliance with Provincial legislation.

Joseph Kos, Longspur Circle: suggested that because the variances affect safety, the committee should consider this fact; he noted that the new apartment building may result in an increase in families which also means an increase in children in this area. He suggested that children chase each other on the street and should a tragedy occur it would be for the applicant as well as the rest of the community to accept. He stated that whether the proposal abides with provincial and municipal by-laws it may not be right for our community. He cited an unfortunate experience of recent past where community people were devastated by the skateboard

accident resulting in the death of a teenager and suggested that this community will again be devastated if an accident occurs because of this proposal and he asked that the Committee take this into consideration.

Mr. Lesdow advised that as part of the development a wrought iron fence will be erected around the property to enclose the green space area.

Bill Heska, Vera Street: asked if the calculated lot coverage is for buildings and whether it includes the garages, buildings and paved area and driveway. Mr. Lesdow advised it calculates buildings and structures, but does not include the paved parking or driveway area.

Mr. Heska noted that the Pedlar Funeral Home, situated on the abutting parcel to the south, is a landmark community business, and when seniors or long term residents pass away, they park on Pelham Street in order to attend visitation or funeral services. He noted that this creates a traffic hazard now on Pelham Street and Pancake Lane, however with this proposal and insufficient visitor parking provided he suggested the problem will worsen. He asked that all required parking be provided on site. Mr. Lesdow advised that the applicant is requesting a reduction in parking by only two spaces.

Mr. Heska noted that the proposal will result in all flow in and out of the parcel taking place from Pancake Lane, whereas at the present time there is a drive through but some residents or visitors still park along the driveway and he suggested that the parking is not adequate now and will only be made worse. Mr. Lesdow noted that the variance and this new proposal will improve the parking opportunities on the site.

Mr. Heska noted that the lights at this intersection are not traffic lights but rather, are intended to enable a pedestrian crosswalk. He suggested that the lights are useless and indicated that this is a major issue in the municipality. He indicated that there have been several accidents there and there is a need for adequate traffic lights at this intersection. Further, he noted that Pancake Lane is a two-lanes road with no storm sewers and he suggested that this has to be addressed. Because there are no storm sewers, he wondered where the water will go when the ground area is replaced with a new building and more paved areas. Mr. Lesdow responded that it will be directed toward Pelham Street, however Mr.

Heska stated that runoff is like a river now after significant rain events. He also questioned how the building will be oriented with existing sidewalks.

Member Federico again advised those present that this Committee is trying to help understand their concerns as they relate to the variances, however noted again that certain aspects are outside of the jurisdictional authority of the Committee. He noted that the building could be constructed and the proposal could go ahead without the need to seek public input, except for the reduced setbacks. Although he was pleased to see the public interest and community involvement and encouraged people to continue to stay interested in the community, he again noted that concerns that do not relate to the development should be addressed to Council and/or municipal staff.

Mr. Heska suggested that this building will add to what is, in his opinion, an already inadequate infrastructure, and thus cannot be considered minor because further work on drainage issues is needed.

Chair DiMartile advised that the property is subject to site plan approval, so prior to issuance of a building permit there will be the need to submit a drainage plan.

Mr. Heska questioned how pedestrian traffic will be controlled, and how garbage trucks will access the site. Mr. Lesdow advised that they will have sufficient room to drive straight in and back out at the hammer driveway, then pull out front first to Pancake Lane.

To address questions regarding the reduction by two parking spaces to facilitate more landscaping, he noted that they can accommodate two more spaces, but this would result in a reduction of greenspace. These two parking spaces are not needed for the extra units, but could be accommodated if not approved. Matters relating to the traffic lights, he suggested, should be addressed through petitioning council but are not related to this project.

Eileen Lampman, Pelham Street: requested clarification on the proposed number of parking spaces, to which Mr. Lesdow responded that for 23 units, there would be 33 parking spaces.

Mrs. Lampman noted that most families have two vehicles and she

wondered what will happen in the event that every tenant has two vehicles. Mr. Lesdow again noted that they are requesting a small variance to allow for more landscaped area.

Mrs. Lampman indicated that there is a church on the opposite side of Pancake Lane that has a day care so she did not think that overflow parking could be accommodated at that location. Mr. Lesdow advised that all tenant parking would be provided for on-site and that to allow for two spaces per unit is not reasonable nor would it be common in municipalities. He indicated that the formula for parking is one parking spot per unit and for every two units you need one visitor spot, which equals 1.5 per unit. Mrs. Lampman argued that most apartment units accommodate two people and in today's world, most families have two cars. She suggested that the proposal changes the concept of the area, and there will be parking problems that arise.

Mrs. Lampman questioned if the municipal fire department had been circulated, the Secretary-Treasurer confirming that they had been provided Notice of the application. The fire department did not respond with any concerns.

Helen Wizmer, Pancake Lane: Had submitted a petition last fall for a 4-way stop at Pancake Lane & Pelham Street and was told it would be addressed in the spring however this is not final. She suggested that the pedestrian crossing light in this location is not effective and that there is a traffic issue. Mr. Lesdow expressed his understanding, however noted that this is an issue under Council jurisdiction not this Committee. Mrs. Wizmer then questioned how the Town could allow the applicant to put two buildings on this parcel. Mr. Lesdow noted that the property is zoned Multi-Residential and the applicant could have connected the two buildings resulting in the same ground coverage.

Ted Johnston, Forest Hill: stated he has lived here for the past 29 years and questioned what would happen if all requests are denied. Chair DiMartile responded that the applicants could develop one of the other concept plans without the need for variance.

Mr. Lesdow also noted that the applicant could appeal to the Ontario Municipal Board themselves, or as noted by the Chair submit a different proposal.

Mr. Johnston questioned if a severance would be required to allow for the second building, whereupon the Secretary-Treasurer outlined the Multi-Residential zoning on the property and cited other

examples of apartment buildings on one lot throughout the municipality.

Mr. Johnston stated that he has concerns relating to the first requested variance pertaining to the north side of the property. He stated that if Council puts a proper light at the intersection, they would need to acquire property on each side of Pancake Lane to accommodate turning lanes so this variance might encroach on this opportunity for what has to happen at this intersection. He did not support the crosswalk system and questioned its value at this location, and the rationale used to determine its appropriateness.

Mr. Lesdow responded that if an additional lane is needed for turning, sufficient lands within the road allowance are available and he suggested that sight lines will be improved with this proposal.

Mr. Lesdow also noted residents' comments related to traffic concerns, which appear significant in this area.

Mr. Johnston acknowledged that he may have misunderstood the Notice and suggested that the proposal appears to boil down to money overall. For example, he suggested that the development will downgrade their property and cost them money in the end. He noted that his taxes used to be low and he does not support this application as he was of the opinion that it will devalue his property.

John Schel, Pelham Street: lives directly opposite the development site on Pelham Street. Mr. Schel indicated that any water that leaves the subject property comes to his property. He questioned the agent as to his awareness of the front setback of the existing building to Pelham Street, to which Mr. Lesdow responded that to the lot line it is 28 metres.

Mr. Schel then asked if the applicant/agent was aware that the adjacent funeral home has the same setback distance as the existing apartment building, as well as all of the existing properties along Pelham Street. He submitted that this establishes the character of the neighbourhood and part of that character is the fact that they have large frontages, or set back distances. He noted that from the funeral home northerly, all the way into the downtown area, the setbacks are similar. He questioned if any consideration had been given to using the same footprint but through an addition to the side of the building, to keep the lots built in the 1950's and 1960's on the adjacent three corners of the street having the same setback distance standard. Mr. Lesdow advised that in order to add on to a 1960's building, the costs would be prohibitive.

Further, current building by-laws deal with earthquake events and

set standards under this protocol. He explained some of the measures that must be taken under this circumstance. Given that the building is limited to five storeys, the prohibitive costs would not make adding on a viable solution.

Mr. Schel suggested that when considering this proposal, one needs to understand what the term neighbourhood means. In this neighbourhood, the existing greenspace has been in existence since 1959. Mr. Lesdow indicated that although the building could be situated elsewhere on the property, the best location to incorporate as much green space as possible, is the proposal submitted. He also noted that the proposal is in compliance with the Zoning By-law in terms of front yard setback and he suggested that there are times when various architectural elements can serve to break the monotony of setbacks if they are all equally aligned.

Mr. Schel, noting that he was formerly appointed to another Board similar to that of the Ontario Municipal Board, suggested that residents may need to have space to regather themselves, noting that some may be taking their anger over this proposal out on committee. He suggested that as a community they will need to get back to Council on their concerns, and suggested they may need to consider a joint lawsuit to act in the best interests of the Town and the community at large. He suggested that some times changes are made and parties do not understand the impact of the changes, so there may be a need to petition Council to make changes to the zoning by-law or official plan. He exemplified historic sites, and stated that he believes the Official Plan is written properly as it relates to the "character of the neighbourhood". However, when zoning by-laws are developed there may be a difference in intent. He suggested that whereas this area is now considered the "middle" of Fonthill, it used to be the outskirts. He suggested that the Town should encourage development only within the East Fonthill area as this new development will encompass a large residential component. He suggested that a development of this nature and this size is, in his opinion, asinine and if this one is permitted, the situation could continue across the street on the similar apartment building and property. He stated that he didn't leave Toronto to live in another Toronto but rather, moved here to get out of the city and rat race of that lifestyle. He established his business in this town and operated nationally, but remained in Fonthill because it was rural.

Fred Sidler - Pedlar Funeral Home, Pelham Street: suggested that the residents' points are not being understood. When the agent, for

example, suggested that this represents the best design, he questioned who this is the best design for, and for whom it provides a better solution - questioning if it is for the applicant, or for the community at large, or for the neighbours. Mr. Lesdow suggested that he considers this to be the best proposal in the best interests of the neighbours and although they have not directly canvassed everyone, he suggested that when one is developing a design it is a balance of variables that are taken into consideration and when analyzed one must come to a conclusion that one solution satisfies the issues. In his opinion, this proposal does this because it creates the greenspace to stay in keeping with the area and in his opinion this represents the best design.

Mr. Sidler stated that he did canvass neighbours in this community and they held numerous meetings. He noted that there are some 190 people against these variances. Further, he stated that he contacted various Councillors within the Region to ensure that they were all aware of the proposal for information purposes only. He noted that councillors are aware of the proposal, but also that this committee makes the decision. He was hopeful that this decision will be based on the community's needs. He noted that the initial proposal drafts were not submitted for the review of neighbours, but acknowledged that any previous design does not matter - only what has been submitted.

Mr. Lesdow advised that he presented previous considerations in order to give an understanding and background into the design development process and why they chose the proposal as presented, albeit with the need for variance approvals. Although he and the owners did not directly contact all neighbours, they did meet with staff in the building, planning and engineering departments and reviewed the requirements of the by-law.

In response to a question by Mr. Sidler, Mr. Lesdow advised that he was licenced 1985 as an Architect. Mr. Sidler criticized the statements offered by Mr. Lesdow pertaining to light pollution and suggested that some statements are false and represent assumptions. However, Mr. Sidler advised that he, on the other hand, submitted facts about light pollution. Mr. Lesdow noted that what he said was that generally people close drapes so people don't see inside and that residential light wattages are low, and in comparison to commercial lighting that might be active 24 hours a day, this apartment would incorporate residential lights that would

tend to go with a rhythm similar to that of the neighbourhood. He noted that he in no way meant to mock the information presented by Mr. Sidler, and apologized if this was the intent perceived.

Mr. Sidler advised that with regard to the setback and parking on the south side as it relates to access for emergency vehicles, he personally contacted the fire department who advised him that in fact, the proposal meets their requirements and that they have the option of pulling to the front of the building should the need arise.

He noted that the reduced setbacks will not only affect light pollution but also drainage. He was not aware of the submission of any information to show how the water will flow back to front and he suggested that this is an extreme error. The property of the funeral home is 3 feet lower than this site and water flows to the south not southeast. He stated that the funeral home property is already saturated and reduced setback limitations will greatly affect natural drainage to the south and the east having a negative impact on the funeral home property. He suggested that even if the applicants are proposing additional swale drainage to the front of the abutting their property will still have to accept more water.

Mr. Lesdow suggested that this information relates to an existing condition but because new construction is proposed, the site plan agreement will guarantee this cannot happen. Because there are no storm sewers at this location, there will be a need to move water to municipal ditches. Their drainage plan will not slope toward the funeral home but they can create a swale. He advised that the long term plan is for construction of catchbasins and pipe to connect to a new proposed storm sewer. Mr. Sidler, however, continued to object to the variance on the south and east for drainage issues, indicating that it matters to him what "is" not what "might be" and he encouraged a better drainage plan be developed now as a demonstration of good faith.

Mr. Lesdow confirmed that the Town won't allow any new development without the site plan process and the Town will insist on a grading plan. They will investigate pre and post flows and will strongly consider drainage improvements.

Mr. Sidler stated that he continues to have great concern over this proposal, stating reasons relating to a loss of privacy, drainage issues, and light pollution. He suggested that the applicants not seek variances but build in compliance with the by-law. He submitted information on how sight lines will be changed. Mr. Sidler indicated that he was of the belief that the Region of Niagara

purchased land along Pelham Street from south of John Street to Welland Road with the expectation of a Regional Official Plan change to focus on residential intensification. However, with intensification will come the need for better roads and he encouraged the committee to use forward thinking when considering the application. Mr. Lesdow noted that there are approximately sixteen metres available for road improvements from the curb to the lot line thus providing a lot of land to expand the road. Further, he noted that there is no setback variance requested from the Pelham Street lot line.

Mr. Sidler addressed the character of the neighbourhood, opining that approval will allow for an unfair advantage for one business owner over the next due to a newly created issue including decreased general visibility of the business and the decreased sunlight exposure to the property, concerns regarding drainage and the appearance as it will dramatically diminish the privacy for the owners, residents and families of the funeral home.

At this point in the meeting, the Chair called for a five minute recess.

The committee reconvened and the Secretary-Treasurer provided guidance to residents pertaining to the process to address Council for matters outside the realm of responsibilities for this Committee.

Perierre Garneau, Forest Hill Crescent: asked if aesthetics of the development matter, and how this will look to the eye of those traveling in the vicinity.

Member Cook noted that it would be through the site plan control process to deal with matters relating to drainage, aesthetics, fencing, types of plantings, etc.. The Architect will look at the neighbourhood and utilize the textures and surfaces available to incorporate into the design. Member Cook noted that the Architect has advised that these considerations have already been considered in terms of blending with neighbourhood and reminded persons present that these matters do not fall within the scope of a Committee of Adjustment's authority to regulate. A site plan goes above and beyond the strict requirements of a zoning by-law.

Mr. Lesdow referenced the elevation drawings reviewed at the outset of the meeting, noting that the applicant intends to construct a new hip roof on the old building which gives a more residential

feel. Although the existing brick can't be changed the idea is to take similar brick and incorporate it into the new building so it is not a hodgepodge development but rather, represents one complex on one site. The construction will also incorporate stone and peaked roofs so that the architectural design components work well within the established neighbourhood.

Tina Sidler, Pedlar Funeral Home, Pelham Street: spoke in relation to the variances for the south side stating that she is strongly against the variances as the second building will appear to be on top of the funeral home. The building location will block the view of the funeral home's business sign. She stated that she considers this building to be right on top of her business and suggested it will present an unsafe traffic condition for funeral processions from the funeral home. She suggested that approval of this proposal will represent a situation that is unfair to her business as it will block the view from Pelham Street.

Hearing no further submissions from the public, the Chair closed the public portion of the meeting at this point.

Committee Input:

Mr. Lesdow, in response to a question by the Committee, stated that snow clearing was taken into consideration when establishing the parking aisle widths, and that there is sufficient area to dump snow to the north side. With regard to the cumulative effect of parking aisles and reduced parking requirements, Member Federico expressed concern that when snow is there people have difficulty parking within the lines and could cause street parking. However, Mr. Lesdow advised that the majority of tenant parking will not be defined by painted lines, but rather will be through structural columns to create a reference for parking while still allowing sufficient area to dump the snow.

With regard to the reduced sideyard setback, Member Federico questioned the architect as to whether the building could be moved northerly and still achieve a sufficient amount of greenspace. Mr. Lesdow indicated that one proposal did comply with side yard setbacks however covered a good portion of the existing building thus reducing the greenspace and streetscape. The committee worked with the agent to attempt some form of compromise in this regard.

Member Cook suggested that additional space along the southerly boundary will be needed to ensure a swale is incorporated until such time as the storm sewers are complete. He did not support 1.8 metres, noting that one metre would be better to better facilitate drainage. He could not support the reduction of the side yard setback by 1.8 metres from 6.8 metres to 5.0 metres, noting that a reduction by 1.0 metre might be more appropriate to facilitate better drainage, based on comments from the adjacent property owner.

Member Cook was not supportive of the reduction in parking aisle widths, noting that people drive larger trucks and vehicles that are longer, thus a turning radius and turnaround area is difficult for ingress and egress to parking stalls. Mr. Lesdow noted that other municipal standards are less in nearby communities, however Member Cook stated that he would prefer an increase overall to address the length of vehicles, noting that old by-laws were based on smaller cars. Mr. Lesdow suggested that this concern might be addressed through designated parking for "compact cars only". He noted that the reduction along the south side was proposed in order to maintain the existing coniferous trees.

Member Cook stated that he could not support the variance to request the reduction in the number of parking stalls, noting that it is often the case that there are never enough stalls in apartment buildings. Apartments with two or more bedrooms often need two stalls and seeing that there is the ability to put in two stalls by extending into the green space, he did not support this variance and would like to see it withdrawn, or refused.

The applicant was present in the gallery and recommended to Mr. Lesdow that this portion of the application be withdrawn and that they proceed with the development in compliance with parking requirements for 35 spaces.

Member Federico noted that although the variance for a reduction in landscaping is understood, he sought some form of commitment to properly landscape in terms of materials to be installed. For example, to achieve appropriate separation from the sidewalk, a simple flower bed would not be appropriate to achieve separation and provide a buffer from the parking area. Although it was recognized that a landscape architect would develop the plan for this component, the Member did not want to see this commitment forgotten and suggested a condition to require that appropriate

plantings be used to provide adequate screening such as cedars, through the site plan process. Mr. Lesdow was supportive of this approach.

Member Cook questioned if consideration had been given to the ability for vehicles backing out of diagonal stalls to orient vehicles to access Pancake Lane, noting that the existing lot allows for ingress and egress from two streets. Mr. Lesdow advised that they performed turning radius tests to support the application. The applicant also noted that the carport engineered design is oversized.

The following motions were presented regarding File A4/2015P on behalf of Stojan Zoric and Mary Zoric:

Resolution #CA20150707.1003

Moved By: Member Cook Second By: Member Federico

THAT relief from Schedule C: Parking Aisle Reduction to 6.0m – north side (7.3m required) be GRANTED subject to the following condition:

Condition of Approval:

THAT storm water catch basin placements shall be placed with thought to future storm sewer construction, to the satisfaction of the Director of Public Works for the Town of Pelham.

Reasons:

1. The variance is minor in nature as the reduction in parking aisle width will be adjusted to facilitate construction of a functional parking lot to serve tenants of both apartment buildings and the proposed parking aisle widths appear to be sufficient to accommodate two-way vehicular traffic
2. The general purpose and intent of the Zoning By-law is maintained as the scale of the development is appropriate given its location in the urban/built-up area and the development is permitted within the Residential Multiple 2 (RM2) Zone, which permits apartment buildings up to five storeys.
3. The intent of the Official Plan is maintained as the use is permitted in the “Urban Living Area/Built Boundary” designation and respects the character of the surrounding area.
4. The proposal is desirable for the appropriate development and/or use of the land as there is also a two-storey apartment on the subject property, and the property adjacent.
5. The development does not appear to create any traffic hazards as access will be located on Pancake Lane.

6. There appears to be sufficient land area to incorporate recreational amenity area, landscaping and buffering.
7. This application is granted without prejudice to any other application in the Town of Pelham.

Carried

Resolution #CA20150707.1004

Moved By: Member Federico Second By: Member Cook

THAT relief from Section 6.17(b): Reduction in Planting Strip to 1.5 m – north side (3.0 m required) be GRANTED subject to the following conditions:

Conditions of Approval:

1. **THAT storm water catch basin placements shall be placed with thought to future storm sewer construction, to the satisfaction of the Director of Public Works for the Town of Pelham.**
2. **THAT the Site Plan Approval process include a provision to require that appropriate plantings, such as cedars, be utilized in the planting strip so as to provide adequate screening between the road and the parking area.**

Reasons:

1. The variance is minor in nature as the reduction in the planting strip will provide additional space for construction of functional parking and there appears to be a sufficient buffer between the parking lot and the northern property line.
2. The general purpose and intent of the Zoning By-law is maintained as the scale of the development is appropriate given its location in the urban/built-up area and the development is permitted within the Residential Multiple 2 (RM2) Zone, which permits apartment buildings up to five storeys.
3. The intent of the Official Plan is maintained as the use is permitted in the “Urban Living Area/Built Boundary” designation and respects the character of the surrounding area.
4. The proposal is desirable for the appropriate development and/or use of the land as there is also a two-storey apartment on the subject property, and the property adjacent.
5. The development does not appear to create any traffic hazards as access will be located on Pancake Lane.
6. There appears to be sufficient land area to incorporate recreational amenity area, landscaping and buffering.
7. This application is granted without prejudice to any other application in the Town of Pelham.

Carried

Resolution #CA20150707.1005

Moved By: Member Federico Second By: Chair DiMartile

THAT relief from Schedule C: Parking Aisle Reduction to 6.5m – south side (7.3 m required) be GRANTED subject to the following condition:

(Member D. Cook did not support this decision)

Condition of Approval:

THAT storm water catch basin placements shall be placed with thought to future storm sewer construction, to the satisfaction of the Director of Public Works for the Town of Pelham.

Reasons:

1. The variance is minor in nature as the reduction in parking aisle width will be adjusted to facilitate construction of a functional parking lot to serve tenants of both apartment buildings and the proposed parking aisle widths appear to be sufficient to accommodate two-way vehicular traffic
2. The general purpose and intent of the Zoning By-law is maintained as the scale of the development is appropriate given its location in the urban/built-up area and the development is permitted within the Residential Multiple 2 (RM2) Zone, which permits apartment buildings up to five storeys.
3. The intent of the Official Plan is maintained as the use is permitted in the “Urban Living Area/Built Boundary” designation and respects the character of the surrounding area.
4. The proposal is desirable for the appropriate development and/or use of the land as there is also a two-storey apartment on the subject property, and the property adjacent.
5. The development does not appear to create any traffic hazards as access will be located on Pancake Lane.
6. There appears to be sufficient land area to incorporate recreational amenity area, landscaping and buffering.
7. This application is granted without prejudice to any other application in the Town of Pelham.

Carried

Resolution #CA20150707.1006

Moved By: Member Cook Second By: Member Federico

THAT relief from Section 6.16(I): Reduction of side yard setback for parking structure, to 3.25m (6 m required) be GRANTED subject to the following condition

Condition of Approval:

THAT storm water catch basin placements shall be placed with

thought to future storm sewer construction, to the satisfaction of the Director of Public Works for the Town of Pelham.

Reasons:

1. The variance is minor in nature as the reduction in side yard setback for the parking structure permits sufficient space around the structure for future maintenance.
2. The existing coniferous trees between the parking structure and the adjacent lot will maintain privacy between the two parcels.
3. The general purpose and intent of the Zoning By-law is maintained as the scale of the development is appropriate given its location in the urban/built-up area and the development is permitted within the Residential Multiple 2 (RM2) Zone, which permits apartment buildings up to five storeys.
4. The intent of the Official Plan is maintained as the use is permitted in the "Urban Living Area/Built Boundary" designation and respects the character of the surrounding area.
5. The proposal is desirable for the appropriate development and/or use of the land as there is also a two-storey apartment on the subject property, and the property adjacent.
6. The development does not appear to create any traffic hazards as access will be located on Pancake Lane.
7. There appears to be sufficient land area to incorporate recreational amenity area, landscaping and buffering.
8. This application is granted without prejudice to any other application in the Town of Pelham.

Carried

Resolution #CA20150707.1007

Moved By: Member Cook Second By: Member Federico

THAT relief from Section 17.2(h): Side Yard Setback Reduction for New Building to ~~5.0m~~* (6.8 m required) be GRANTED, as MODIFIED subject to the following condition:

Setback Approved at 5.9* metres (6.8 metres required)

Condition of Approval:

THAT storm water catch basin placements shall be placed with thought to future storm sewer construction, to the satisfaction of the Director of Public Works for the Town of Pelham.

Reasons:

1. The variance is minor in nature as the reduction in side yard for the proposed apartment building will provide sufficient amenity space around the structure and sufficient space for

future maintenance.

2. The reduction in side yard setback will allow for accommodation of pedestrian traffic and landscaping, and ensure there is appropriate distance between both buildings on the site.
3. The general purpose and intent of the Zoning By-law is maintained as the scale of the development is appropriate given its location in the urban/built-up area and the development is permitted within the Residential Multiple 2 (RM2) Zone, which permits apartment buildings up to five storeys.
4. The intent of the Official Plan is maintained as the use is permitted in the "Urban Living Area/Built Boundary" designation and respects the character of the surrounding area.
5. The proposal is desirable for the appropriate development and/or use of the land as there is also a two-storey apartment on the subject property, and the property adjacent.
6. The development does not appear to create any traffic hazards as access will be located on Pancake Lane.
7. There appears to be sufficient land area to incorporate recreational amenity area, landscaping and buffering.
8. This application is granted without prejudice to any other application in the Town of Pelham.

Carried

Resolution #CA20150707.1008

Moved By: Member Federico Second By: Member Cook

THAT relief from Section 6.16(a): Reduction in required parking spaces to 33 (35 required) be REFUSED for the following reason:

Reason:

1. This variance application was withdrawn by the applicant at the public hearing. The applicant has committed to installing the required parking on site.

AND THAT relief from Section 17.2(3) - Maximum Lot Coverage: 33% for all structures (30% permitted) be REFUSED for the following reason:

Reason:

1. This variance application was withdrawn by the applicant at the public hearing. The applicant's agent advised that there

was a calculation error made when the application was submitted and confirmed that the lot coverage is in compliance with the By-law requirements, at 28.1%.

Carried

Minutes for Approval

Resolution #CA20150707.1009

Moved By: james Second By: Don

MOVED THAT the minutes of the Committee of Adjustment Hearing 2/2015 held on 2015/05/05 be adopted as printed, circulated and read.

Carried

Resolution #CA20150707.1010

Moved By: james Second By: don

MOVED THAT the minutes of the Committee of Adjustment Hearing 3/2015 held on 2015/06/02 be adopted as printed, circulated and read.

Carried

Adjournment

Resolution #CA20150707.1011

Moved By: James Federico

On a motion by Member Federico, the meeting was adjourned at 8:05 p.m.

Carried

B. DiMartile, Chair

Nancy J. Bozzato, Town Clerk/Secretary-Treasurer

Date Approved

Hearing Chair